

April 4, 2013

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:32 P.M.

PRESENT:	Commissioners:	Sarah W. Morgan, Chair Kathryn A. Hein Paoi X. Lor Richard C. Cox Michael M. O'Hear Ann Wilson
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ALSO PRESENT: Michael Romas, Assistant Chief, representing the Milwaukee Fire Department; and James Harpole, Assistant Chief, representing the Milwaukee Police Department.

The Director presented for adoption minutes of the Regular Meeting of March 21, 2013. Commissioner O'Hear moved approval of the minutes as presented, seconded by Commissioner Cox. The motion carried unanimously.

1. UNFINISHED BUSINESS:

a) The Director returned to the Board a request from the Police Department to reclassify the position of Police Identification Supervisor to Police Records Manager. In a report dated April 3, 2013, Maria Monteagudo, Director of Employee Relations, recommends that in the Salary Ordinance, under Pay Range 1DX, the title "Police Records Manager" should be added. In the Positions Ordinance, under Police Department, Specialized Investigations, Investigative Management Division, one position of "Police Identification Supervisor" should be deleted and under Strategic Management, Records Management, one position of "Police Records Manager" should be added. Laura Sutherland, Department of Employee Relations (DER) Human Resources Representative, indicated this position would provide civilian leadership to the Records Management Section by using the position authority of a currently vacant Police Identification Supervisor and would report to Inspector Mary Hoerig. Ms. Sutherland said the job evaluation showed that the position is comparable to the City Document Services Manager position and the Police Records Manager should be established at the same pay grade.

The Director asked how this position fits into the Department's new strategy for records management and crime statistics. Inspector Hoerig said, under the current reorganization, the Strategic Management command encompasses the Office of Management and Analysis, Open Records, Records Management, and Information Technology (IT). This position would report to the Inspector in charge of Strategic Management and the civilian position would be similar to that of a Captain. The Director asked if this position would have the default authority to correct errors in the Uniform Crime Reporting (UCR) classifications from an incident report or if the report would be sent back to the district. Inspector Hoerig replied that the Records Manager has final authority on National Incident-Based Reporting System (NIBRS) coding of crime. The Director asked if the position would be looking at errors department-wide and making evaluations and recommendations on how to improve the error rate. Inspector Hoerig said it would.

The Chair asked if this position was a result of the recommendations made by PRI following their Independent Audit of Crime Statistics. Inspector Hoerig said that Chief Flynn had requested this position approximately 18 months ago, but the Department had been working to determine how to fund the position and was also doing research to determine what the position would entail. Inspector Hoerig said the PRI audit helped MPD flesh out the position, ensure they were on the right track, and move forward. In addition, MPD looked at other major metropolitan departments that had Records Manager positions to see what job functions and responsibilities were classified for the position within the respective command structures. Inspector Hoerig indicated DER was very helpful in determining how the position would fit into City

management. Commissioner Cox moved approval of the recommendation, seconded by Commissioner O'Hear. The motion carried unanimously.

b) The Director returned to the Board a request from the Police Department to classify one (1) new position of Lead Police Telecommunicator in Pay Range 6HN. Laura Sutherland said this was a new position established in the 2013 Budget and would have the same duties and responsibilities as other Lead Police Telecommunicators in the Police Department. Commissioner O'Hear moved approval of the recommendation, seconded by Commissioner Cox.

c) The Director returned to the Board a request from the Police Department to classify ten (10) new positions of Police Telecommunicator in Pay Range 6FN. Laura Sutherland said these were new positions established in the 2013 Budget and would have the same duties and responsibilities as other Police Telecommunicators in the Police Department. Commissioner Cox moved approval of the recommendation, seconded by Commissioner Hein.

2. NEW BUSINESS:

a) The Director presented the 2012 Report on Milwaukee Police Department Firearms Discharges. The Director said the intention of the report is to better inform the public what an officer faces during an armed encounter. The report includes an appendix that describes each shooting incident, what the officer encountered, and the final findings. The report begins by describing how the department and the community as a whole respond to an officer-involved shooting. According to the Director, whenever there is an officer-involved shooting in Milwaukee, the department mobilizes its most experienced investigators and sends them to the scene, along with police officers and District Commanders. In addition, the Police Dispatcher notifies the Milwaukee County District Attorney's (DA's) office because their office responds to all officer-involved shootings. If there is a death in custody, the Medical Examiner (ME) and Medical Examiner Investigators respond in person. Finally, the Police Dispatcher notifies the Fire and Police Commission (FPC) and either the Director or an FPC Investigator responds in person. The purpose of this multi-agency response is to ensure a thorough, complete investigation process is in place to deal with critical incidents. There is a very robust system of independent investigations that take place following an officer-involved shooting. Both the DA and the ME conduct independent investigations where they interview police officers and witnesses. The FPC makes an initial determination whether the use of force was justified and monitors whether a thorough and complete investigation is taking place.

Following the investigatory phase, there is a review process done by the police department's Critical Incident Review Board (CIRB). The CIRB policy was amended late last year to allow for a more robust review within MPD and by the FPC. When the CIRB comes to its final conclusion, the findings are reported to the Chief and the Executive Director of the FPC and then the Director reports the conclusions to the Board. The Director indicated it is his hope that MPD and FPC will continue to refine this review process in 2013.

The report encompasses intentional and unintentional (accidental) firearm discharges toward a human being as well as intentional discharges involving animals. With regard to intentional firearm discharges, there has been a 47% decrease from 2011 (15 incidents) and 2012 (eight incidents). According to the Director, there will always be officer-involved shootings, but what matters to the community is how the department responds to the shooting with regard to the review process, the thoroughness of the investigation, and transparency. This is a significant decrease that deserves some recognition for MPD. Additionally, this decrease is a result of scenario-based training received by officers at the Training Academy and is reflective of changes made to policy and oversight over the last one and one-half to two years.

Another significant item to note is the number of officer-involved shootings in relation to the number of dispatched assignments in 2012. Dispatched assignments are those assignments where most officer-involved shootings occur. In 2012, there were over 250,000 dispatched assignments and only eight (8) of those resulted in an intentional firearm discharge by an officer. Finally, the Director called attention to data regarding the number of officer-involved shootings by district. In 2011, District 7 had four (4) officer-involved

shootings and none in 2012. This decrease in District 7 is significant and the data shows that officer-involved shootings are spread throughout the districts rather than concentrated in one or more areas.

The Chair asked the Director to explain the data related to objective completion rate. The Director responded that the objective completion rate relates to whether or not a threat is stopped in an officer-involved shooting. An objective completion rate does not mean that 50% of all bullets that were fired struck a target, but rather 50% of every time an officer used deadly force with a subject that subject was stopped. In 2012, one incident resulted in fatal injuries for the subject while all other incidents where an officer used deadly force resulted in non-fatal injuries or no injuries for the subject. FPC will continue to use this statistical device because it helps the department determine the effectiveness of scenario-based and firearms proficiency training. FPC's recommendation regarding intentional firearms discharges is to have the department examine the objective completion rate to ensure scenario-based firearms training is adequate in helping officers hone their skills.

Commissioner Hein asked if there is a comparison between Milwaukee and other communities of similar size regarding firearms discharge and, if there is not, asked if there could be one in the future. The Director said there is no one resource that could be used for comparison. There are other departments that FPC could compare MPD to, but has purposely chosen not to because there is such a variation between cities; i.e., urban and non-urban areas, older industrialized cities, newer cities that are not as industrialized, variations in record collections processes, and categorization of crimes. Based upon these variances, FPC chose to look year to year at MPD to compare statistics over time rather than do direct comparisons to other cities.

The Director gave one final recommendation with regard to intentional firearms discharges. He said MPD should be encouraged to continue to work with FPC to review and improve the CIRB. As a relatively new process it is important to ensure it is as robust a process as it can be.

The next section of the report deals with unintentional firearms discharges. An unintentional discharge is an accidental discharge of a firearm and there was only incident in 2012. MPD has handled the situation as would be expected by looking at what happened, determining how to prevent it from happening again, and communicating the hazard to officers through a departmental memo. Additionally, MPD has taken effective actions to significantly reduce unintentional firearms discharges by implementing a policy revision recommended in the 2011 Milwaukee Police Department Firearms Discharge Report. This policy requires officers use an approved holster for off-duty concealed carry. The Chair asked if this related to both on-duty and off-duty unintentional firearms discharges. The Director said it did and that there were no off-duty unintentional firearms discharges in 2012. FPC recommends MPD continue their training regimen and enforcement of the revised policy in an effort to maintain the current low incident rate.

Overall in 2012 there has been a decrease in intentional firearms discharges related to animals. However, there was an increase in the number of dogs killed in 2012 versus the number of dogs killed in 2011. The Director said he was aware the Colorado State Legislature was considering a state law requiring officers to undergo specialized training regarding dog-related encounters due to the number of family pets killed in Colorado during encounters with law enforcement. The Director said he mentioned this information to demonstrate that there are other police departments looking at this issue more closely, just as MPD is doing. The Director referenced the chart below, which compares the number of dogs killed in Milwaukee and the number of dogs killed in New York City.

2012 Canines Killed—Comparison of Milwaukee and New York City		
	MILWAUKEE	NEW YORK ¹
Total Incidents	32	36
Number Dogs Targeted	37	43
Dogs Killed	28	12
Dogs Injured	1	19
Total Rounds	105	79
2 or Less Rounds Fired	47.0%	75.0% ²
Greater Than 6 Rounds Fired	5.4%	0.0% ²
Calls for Service Involving Dogs	3,663	28,000 ³
Population ⁴	594,833	8,175,133
Total Sworn Officers	1,890	34,500 ³

1. Most recent available data from 2011 NYPD Firearm Discharge Report
2. Raw data unavailable
3. Approximately as of year end 2012
4. U.S. Census Bureau 2010 data

Despite the number of sworn officers in the City of New York Police Department (NYPD), there were only 12 dogs killed in 2012 compared to 28 dogs killed by MPD. The Director said that while it is difficult to compare cities, this data demonstrates an opportunity for improvement. FPC recommends that MPD should continue to look at intentional discharges related to dogs. According to the Director, the Department of Justice (DOJ) issued a report in 2011 that is a very good reference that identifies protocols for departments to follow to improve their response to dog-related incidents. Model protocols that are now available include a training program for officers on how to de-escalate situations with dogs, identification of aggression in dogs, and identify different training scenarios so officers can use techniques short of deadly force with dogs.

The Director closed his remarks by saying that overall MPD has made significant changes and improvements with regard to subject-involved, officer-involved shootings.

The Chair asked if the department could report back to the Board regarding their efforts to reduce the number of intentional firearm discharges related to animals, specifically dogs. Assistant Chief Harpole said MPD would report back to the Board. Commissioner Hein moved approval of the report, seconded by Commissioner O'Hear. The motion carried unanimously.

3. EXAMINATIONS:

a) The Director presented for approval an examination announcement bulletin for the position of Police Sergeant in the Police Department. Toni Vanderboom, staff Human Resources Representative, said all sworn members of the Milwaukee Police Department with five years of service will be eligible to apply. Pending approval, applications would be available Monday, April 8 through the close of business on Monday, April 29, 2013 at 4:45 p.m. The examination will consist of a written test, oral exam, career review board, and seniority will be considered. The testing process was designed so as not to inhibit candidates interested in applying for both sergeant and detective. To that end, there will be a core test administered that will encompass elements that are equally important to both positions. Then, there will be a written test for sergeant and a written test for detective to be administered in such a way to enable candidates to sit for both exams. Reading lists will be available Monday, April 8, 2013. There will be a core reading list that will apply to both positions as well as a sergeant-specific reading list. Applications and reading lists can be accessed at the Human Resources Sharepoint site, the Department Intranet, and the City Intranet beginning Monday, April 8, 2013.

Commissioner Cox said he believes the standard related to disciplinary suspensions is too harsh and could unfairly penalize an otherwise outstanding officer. Ms. Vanderboom said this is a requirement that has been carried over from previous promotional exams. Commissioner Cox said he realizes that, but still believes the standard is too harsh. Commissioner O'Hear asked what the department thinks about the standard. Assistant Chief Harpole said this had been the standard for many years and while he can understand Commissioner Cox's concerns, he thinks individuals affected by this may be rare, although not unheard of. Assistant Chief Harpole said he would like to hear Chief Flynn's opinion on the matter as well and asked for clarification regarding the timeframe regarding discipline. Ms. Vanderboom replied that the timeframe would be the five (5) years prior to August 3, 2013.

The Director invited the Milwaukee Police Association to comment. Mike Crivello, President of the Milwaukee Police Association, said he appreciated Commissioner Cox's questioning this standard and agreed that it could preclude an otherwise good candidate from applying for the promotion. According to Mr. Crivello, the last test was offered in 2006 and had previously been offered once every two (2) years. At that time, the standard was not as onerous as it is now because tests were administered more frequently.

Commissioner O'Hear wondered how common an event three (3)-day suspensions are and asked if the Board could get some sense of how common and what the nature of the violations are. Assistant Chief Harpole said that information could be provided. Commissioner Cox said his intention was not to delay the process because it has been a long time coming, but wanted the Board to reserve the right to revisit the issue if more information becomes available. Commissioner Cox said he wanted to raise the issue because

it is a daunting standard for the position. Commissioner O'Hear asked if there is a way for applicants to appeal a decision related to this standard. The Director said applicants can send a communication to FPC and staff will look into it. The standard maintains consistency with previous exams. In addition, the Director said he believes there is a department expectation that this is the standard and people in the department understand the expectation. He also said he believes the Chief takes this standard into account when giving out discipline. The Chair said the Board would like to know the number of people affected by this standard and how often three (3)-day suspensions are given, but there is no need to hold up the current process. Ms. Vanderboom said it is FPC's intention to re-establish a more regular testing process and hoped this would alleviate some of the MPA's concerns. Commissioner O'Hear asked if the Milwaukee Fire Department (MFD) has a similar standard regarding discipline. Assistant Chief Romas replied that whatever the FPC dictates, MFD follows. The Chair said the Board should revisit this issue, with additional information, for both departments. Commissioner O'Hear moved approval of the bulletin, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented for approval an examination announcement bulletin for the position of Detective in the Police Department. Toni Vanderboom, staff Human Resources Representative, said all sworn members of the Milwaukee Police Department with four years of service will be eligible to apply. This bulletin does have the same break in service for disciplinary reasons discussed in relation to the examination announcement bulletin discussed in Item a above. Pending approval, applications would be available Monday, April 8 through the close of business on Monday, April 29, 2013 at 4:45 p.m. The examination will consist of a written test, oral exam, career review board, and seniority will be considered. The testing process was designed so as not to inhibit candidates interested in applying for both sergeant and detective. To that end, there will a core test administered that will encompass elements that are equally important to both positions. Then, there will be a written test for sergeant and a written test for detective to be administered in such a way to enable candidates to sit for both exams. Reading lists will be available Monday, April 8, 2013 and there will be a core reading list that will apply to both positions as well as a sergeant-specific reading list. Applications and reading lists can be accessed at the Human Resources Sharepoint site, the Department Intranet, and the City Intranet beginning Monday, April 8, 2013. The written test for both detective and sergeant is tentatively scheduled for Saturday, August 3, 2013 at a time and place to be determined and will be communicated to all accepted applicants.

Commissioner Wilson asked how many positions are open. Assistant Chief Harpole said there were about 70 positions available. Commissioner Hein moved approval of the bulletin, seconded by Commissioner O'Hear. The motion carried unanimously.

c) The Director presented for adoption an eligible list for the position of Police Telecommunicator (Regular) in the Police Department, consisting of 75 names. Ms. Vanderboom said 644 applications were received during the application period for positions for both Regular and Seasonal Police Telecommunicator. Ms. Vanderboom said Regular and Seasonal Police Telecommunicators were tested at the same time. The testing process consisted of a typing test, a written performance test, and an oral board. Commissioner Hein asked how this number of applications compares to the last recruitment. Ms. Vanderboom said that the applications were slightly down from last time, but there was some improvement in the number of applications that met minimum requirements. Commissioner O'Hear moved approval of the list, seconded by Commissioner Cox. The motion carried unanimously.

The Director communicated the amount of work necessary to conduct a test such as this with numbers this large. The Director thanked Ms. Vanderboom and members of MPD for their efforts in the creation of this eligible list. Ms. Vanderboom echoed the Director's remarks and thanked MPD for their assistance.

d) The Director presented for adoption an eligible list for the position of Police Telecommunicator (Seasonal) in the Police Department, consisting of 60 names. Ms. Vanderboom said there was overlap between the Regular and Seasonal Telecommunicator eligible lists because applicants were given the opportunity to apply for one or both of the positions. The Chair asked if the Seasonal Police Telecommunicators worked only during the summer months. Ms. Vanderboom said that was how it had been historically, but the footnote

has been removed that limited employment to the summer and MPD now has the ability to keep Seasonal Police Telecommunicators employed pending need and budgetary requirements. The Chair asked how the process differed between the Seasonal and Regular Police Telecommunicators. Ms. Vanderboom responded that the process is identical for both positions. There is some difference in duties and a monetary difference in positions. Commissioner Wilson asked if there was a breakdown of applicants regarding ethnic background. Ms. Vanderboom said she would provide that information. Commissioner O'Hear moved approval of the list, seconded by Commissioner Hein. The motion carried unanimously.

e) The Director presented a staff request dated March 28, 2013 to extend the Firefighter Eligible List from its expiration date of April 23, 2013 to April 23, 2014, a period of one year. There are 1,148 names on the list and, to date, only 350 have been processed/hired. It is the FPC's intent to use the current list to fill a 35-person Firefighter class to begin sometime in September, 2013. Commissioner Hein moved approval of the list extension, seconded by Commissioner O'Hear. The motion carried unanimously.

f) The Director presented a staff request dated April 1, 2013 to extend the Fire Equipment Repairer II Eligible List from its expiration date of April 7, 2013 to April 7, 2014, a period of one year. There are five (5) names on the list and, to date, only one (1) has been processed/hired. The department would like to continue to use the current list for one year. Commissioner O'Hear moved approval of the list extension, seconded by Commissioner Hein.

g) The Director invited La'Neka Horton, staff Recruiter, to provide a communication regarding the Police Dispatcher application process and open house. Ms. Horton said she worked with MPD Officer Katrina Harris for this recruitment. Ms. Horton said several recruitment efforts and strategies were employed during this recruitment, including dropping off application and open house literature at various locations, attendance at career fairs, individual emails, posting on the PoliceOne employment website, as well as group emails to Aldermen who then disseminated it to their constituents in various ways. In addition, local news channels covered the open house and put it on their Facebook pages. The open house was also on the MPD Source website and was held on Tuesday, March 26, 2013 and Saturday, March 30, 2013 at the Technical Communication Division. There were approximately 465 attendees between the two days. Over 340 hard copy applications were submitted along with additional online applications.

4. FIRE DEPARTMENT:

a) The Director presented correspondence dated March 26, 2013, from Chief Rohlfing, wherein he nominates Battalion Chief Daniel M. Berendt to the exempt position of Deputy Chief, Fire in the Fire Department, to be effective April 28, 2013. Pursuant to Rules of the Board, final action on this nomination was laid over to permit the nominee to be interviewed.

b) The Director presented correspondence dated March 27, 2013, from Chief Rohlfing, wherein he notifies the Board that Firefighter Kenneth Veriga, whose probationary period was extended at the February 21, 2013 Regular Meeting due to an on-duty injury he sustained, successfully completed his probationary period on March 26, 2013.

5. POLICE DEPARTMENT:

a) The Director indicated this item had been removed from the agenda.

b) The following appointments, as presented by Chief Flynn, were approved by the Board:

TO SCHOOL CROSSING GUARD (REGULAR), with effective date:

DENISE WILLIAMS (03-08-13).

TO SCHOOL CROSSING GUARD (SEASONAL), with effective dates:

ROSIE FALCK (12-14-12) and HUBERT FARRIS (12-14-12).

b) The Director presented correspondence from Chief Flynn, dated March 25, 2013, wherein he notifies the Board that Police Services Specialist Investigator Susan M. Bodden-Eichsteadt has been granted a one year extension to her leave of absence for the purpose of filling the exempt position of Investigator/Auditor for the Fire and Police Commission. The leave shall expire April 18, 2014, and may be renewed upon request.

c) The Director presented correspondence from Chief Flynn, dated March 25, 2013, wherein he notifies the Board that Police Officer Eugene Burns was granted an extension to an unpaid military leave of absence, which commenced on February 18, 2012, until February 19, 2014 and Police Dispatcher Jakara Burt was granted an unpaid military leave of absence until April, 2017, on March 26, 2013.

6. PUBLIC COMMENT:

Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) of Wisconsin, spoke regarding MPD Standard Operating Procedure (SOP) 090 which deals in part with strip and body cavity searches. Mr. Ahmuty said he believes the reconfigured SOP will be presented to the Board for consideration as early as April 18th. Mr. Ahmuty asked that citizens be able to comment on this SOP because it deals with "citizen contact". He urged the Board to provide an opportunity for the public to testify regarding this SOP prior to the meeting in which it will be voted on. Mr. Ahmuty said a more transparent review process will build confidence among the public in the MPD and the FPC. In addition, Mr. Ahmuty said training on the SOP, diligent supervision, and internal reporting on citizen contacts for management purposes are necessary once the SOP has been modified. Mr. Ahmuty requested the Board advise him of the process for reviewing the proposed citizen contact SOP.

7. ADJOURNMENT:

Commissioner O'Hear moved to adjourn the meeting, seconded by Commissioner Lor. The motion carried unanimously.

The meeting concluded at 6:38 P.M.

Respectfully submitted,



Michael G. Tobin
Executive Director

MGT:kj